

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on December 17, 2007 has been entered.

The replacement drawings were received on December 17, 2007. These drawings are objected to as containing new matter. Applicant points to instant [0038]-[0039] for support in that the phrase "in combination with" discloses that the dilution may be combined with pH adjustment step.

However what this also can mean is that both the chemical adjustment and the dilution step for pH adjustment may be used in parallel. Figure 2B shows and [0038]-[0039] confirm that there will always be chemical pH adjustment prior to solvent extraction and that there optionally may be a dilution step used in combination with the chemical pH adjustment prior to solvent extraction. Thus the need for the dotted line from the copper containing solution 230 to the dilution step 250 in Figure 2B.

New corrected drawings in compliance with 37 CFR 1.121(d) are required in this application because the replacement drawings filed December 17, 2007 contain new matter. Applicant is advised to employ the services of a competent patent draftsman outside the Office, as the U.S. Patent and Trademark Office no longer prepares new drawings. The corrected drawings are required in reply to the Office action to avoid

Art Unit: 1793

abandonment of the application. The requirement for corrected drawings will not be held in abeyance.

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1-4,6-10 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

In claim 1, “b) adjusting the pH of said metal-bearing solution using chemical pH adjustment to form a pH-adjusted metal-bearing solution; c) diluting said pH-adjusted metal-bearing solution with a diluting solution to form a diluted metal-bearing solution” is new matter.

Applicant points to amended Figure 2B and [0038],[0039] for support.

However the drawing shows, and [0038]-[0039] confirms, that there will always be chemical pH adjustment prior to solvent extraction and that there may be(as shown by the dotted line in Fig. 2B) a dilution step used in combination, ie. in parallel, as is shown in Fig. 2B, with the chemical pH adjustment prior to solvent extraction. Neither Figure 2B nor the paragraphs disclose diluting a previously pH adjusted metal bearing

solution. Figure 2B shows dilution (with a dotted line) or chemical pH adjustment or both but not the dilution of a previously chemically pH adjusted metal bearing solution.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-4,6-10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1, c), line 2, "said metal-bearing solution" is indefinite as to which this is referring to, the one in a), b) or c).

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 19 is rejected under 35 U.S.C. 102(b) as being clearly anticipated by Zbranek '400 or Laferty '733.

See col. 2, lines 15-23 of Zbranek; and col. 2, lines 10-40 of Laferty.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

Art Unit: 1793

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148

USPQ 459 (1966), that are applied for establishing a background for determining

obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 1-4,6-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ketcham '883 in view of Henrickson '821 and Laferty '733.

Ketcham suggests the instantly claimed process of pressure oxidation leaching of molybdenite and then diluting the leachate prior to solvent extracting the molybdenum

Art Unit: 1793

therefrom. See cols. 5-7,14. The taught diluting would appear to be within the instantly claimed ratio which would provide the instantly claimed pH.

However, if not, Henrickson teaches that molybdenum leach liquors may be diluted prior to solvent extracting the molybdenum which serves to avoid post precipitation of salts and facilitates the ease of handling the solution. See cols. 1,6.

It would have been obvious to one skilled in the art to dilute the molybdenum leach liquor of Ketcham as taught by Henrickson because this facilitates ease of handling the solution.

Ketcham and Henrickson may differ in that adjusting the pH of the molybdenum leachate using chemical pH adjustment is not stated.

Laferty teaches such chemical pH adjustment of a molybdenum leachate prior to solvent extraction. See col. 2, lines 10-40.

It would have been obvious to one skilled in the art to use both dilution and chemical pH adjustment for their enhanced combined effect of pH adjustment in a similar molybdenum leaching and subsequent solvent extraction process. See Ex parte Novak 16 USPQ2d 2041 or In re Kerkhoven 205 USPQ 1069.

Applicant's arguments filed December 17, 2007 have been fully considered but they are not persuasive.

Applicant argues that both Zbranek and Laferty teach a pressure leach under basic conditions whereas applicant claims the step of pressure leaching a metal bearing material wherein the pressure leach refers to a metal recovery process in which material

Art Unit: 1793

is contacted with an acidic solution and oxygen under conditions of elevated temperature and pressure and points to [0022].

However limitations from the specification are not read into the claims. See *In re Winkhaus* 188 USPQ 129. The instant claims do not require an acidic oxygenated pressure leach.

Similar arguments are made with regard to *Ketcham*, *Henrickson* and *Laferty* and the examiner hereby incorporates the above response with reference to the fact that limitations from the specification not being read into the claims. *Supra*.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven Bos whose telephone number is 571-272-1350. The examiner can normally be reached on M-F, 9AM to 6PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Stan Silverman can be reached on 571-272-1358. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 1793

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Steven Bos
Primary Examiner
Art Unit 1793

sjb

/Steven Bos/
Primary Examiner, Art Unit 1793